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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Seventy-first year

Identical letters dated 18 April 2016 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

I have the honour to transmit herewith a copy of the letter of Ms. Kolinda Grabar-Kitarović, the President of the Republic of Croatia, regarding the first instance judgment of the International Criminal Tribunal for the Former Yugoslavia in the Šešelj case (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 77, and of the Security Council.

(*Signed*) Vladimir **Drobnjak**
Ambassador
Permanent Representative

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Annex to the identical letters dated 18 April 2016 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

18 April 2016

As the President of the Republic of Croatia, I am deeply disappointed and concerned with the first instance judgment of the International Criminal Tribunal for the Former Yugoslavia in the Šešelj case. I am completely aware that the competent trial chamber of the International Criminal Tribunal for the Former Yugoslavia is independent in its proceedings and decision-making process and that this is a first instance judgment, which was rendered by a majority vote of the three-member Trial Chamber and is subject to the final assessment of the Appeals Chamber.

Nevertheless, it is completely clear that this judgment is not only contrary to the foundations and purpose of the International Criminal Tribunal for the Former Yugoslavia, which was established in 1993 pursuant to the Security Council resolution 827 (1993), but is also deeply damaging to the process of establishing lasting reconciliation, as well as national and religious tolerance in the area of South-East Europe.

At the same time, it should also be added that on 13 October 2015, the then President of the International Criminal Tribunal for the Former Yugoslavia, Theodor Meron, sent a letter to the Security Council reporting on the serious failure of the Republic of Serbia to respect its international obligations. The letter was based on the fact that Serbia did not extradite to the International Criminal Tribunal for the Former Yugoslavia three of its nationals who are indicted before the Tribunal for intimidation and bribing witnesses in the Šešelj case. We can only guess to what extent such conduct damaged the credibility and quality of the testimony, but it is an indisputable fact that important witnesses in the Šešelj case were intimidated, bribed and obstructed in giving their testimony. In this context, the first instance judgment is additionally legally questionable and, from the aspect of its credibility, completely compromised.

We expect not only that Serbia fully cooperates with the International Criminal Tribunal for the Former Yugoslavia, but we also insist that no one ignore the fact that the procedure against witnesses in the Šešelj case was impermissible to the extent that the Tribunal found it necessary to raise an indictment against those responsible for it.

At the same time, this judgment is a very dangerous precedent for all other armed conflicts in which there is an attempt at reaching military objectives by means of committing genocide and ethnic cleansing based on nationalist or racist ideology and criminal inflammatory propaganda.

Vojislav Šešelj is the embodiment of national and religious intolerance, the symbol of persecution and ethnic cleansing in the Republic of Croatia, Bosnia and Herzegovina and Vojvodina (Republic of Serbia) and the instigator of the creation of a "Greater Serbia" by force and through crimes. Therefore, his acquittal is completely contrary to earlier findings of fact and law by the competent chambers of the International Criminal Tribunal for the Former Yugoslavia with reference to

the armed conflict in the territory of the Republic of Croatia and represents an absolute disrespect for victims and their suffering, which intensely continues.

This judgment caused consternation among Croatia's general public and consequently a deep disappointment with the International Criminal Tribunal for the Former Yugoslavia, which in this case proved to be obviously non-resistant to the abuse of international public and criminal law. Furthermore, it will have a negative impact on peace, reconciliation and good-neighbourly relations in the broader area of South-East Europe and all crisis areas of the world. This first instance trial chamber judgment has deeply shaken the trust in the International Criminal Tribunal for the Former Yugoslavia and the reasons why it was established by the Security Council.

During the war and the open aggression against Croatia in 1991, my country strongly supported and welcomed the establishment of the International Criminal Tribunal for the Former Yugoslavia and, from the very beginning, emphasized its special importance and has cooperated with it sincerely and actively.

Additionally, the International Criminal Tribunal for the Former Yugoslavia and its work are of great significance for the overall development of international criminal justice. This kind of judgment sets a negative precedent whose consequences can go beyond the framework of the International Criminal Tribunal for the Former Yugoslavia itself and contaminate the overall perception of the global public about the significance, scope and purpose of international criminal law.

In the context of everything stated above, I ask you to pay special attention to the successful closure of the work of the International Criminal Tribunal for the Former Yugoslavia, while at the same time taking into account the basic reasons for its establishment and, especially, respect for the rights of the victims. In these endeavours, you will certainly have my full support, as well as the support of the Republic of Croatia.

Kolinda **Grabar-Kitarović**